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HOUSE BILL 331

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

WILLIAM E. PORTER

AN ACT

RELATING TO PROFESSIONAL LICENSES; ENACTING THE BURGLAR ALARM LICENSING ACT; REQUIRING LICENSURE FOR THE RETAIL SALE, INSTALLATION, MAINTENANCE, REPAIR, SERVICE OR MONITORING OF BURGLAR ALARMS; CREATING A FUND; PROVIDING PENALTIES; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE. -- This act may be cited as the "Burglar Alarm Licensing Act".

Section 2. DEFINITIONS. -- As used in the Burglar Alarm Licensing Act:

- A. "board" means the burglar alarm licensing board;
- B. "burglar alarm business" means a person licensed by the board to operate a business to sell at retail or install, maintain, repair, service or monitor a burglar alarm system;

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1 C. "burglar alarm specialist" means a person
2 employed by a burglar alarm business and registered with the
3 board to sell at retail or install, maintain, repair, service or
4 monitor a burglar alarm system;

5 D. "burglar alarm system" means equipment or devices
6 assembled for the purposes of detecting and signaling when
7 unauthorized intrusion or entry into or onto certain premises
8 occurs or signaling a robbery or attempted robbery on certain
9 premises and which signals are monitored by personnel located
10 away from the premises; and

11 E. "person" means an individual or other legal
12 entity.

13 Section 3. LICENSE REQUIRED.--It is unlawful for any
14 person to:

15 A. sell at retail or install, maintain, repair,
16 service or monitor a burglar alarm system unless that person is
17 licensed by the board as a burglar alarm business or registered
18 by the board as a burglar alarm specialist under the Burglar
19 Alarm Licensing Act;

20 B. represent himself as a burglar alarm business or
21 burglar alarm specialist unless the person is licensed or
22 registered under the Burglar Alarm Licensing Act; or

23 C. continue to act as a burglar alarm business or
24 burglar alarm specialist if the license or registration issued
25 pursuant to the Burglar Alarm Licensing Act has expired or been

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1 suspended.

2 Section 4. EXEMPTION. -- Nothing in the Burglar Alarm
3 Licensing Act applies to burglar alarm owners who install,
4 maintain, repair, service or monitor their own burglar alarm
5 system.

6 Section 5. BOARD CREATED-- MEMBERS-- QUALIFICATIONS-- TERMS--
7 VACANCIES-- REMOVAL. --

8 A. The "burglar alarm licensing board" is created.
9 The board is composed of six members. Four members shall be
10 representatives from the burglar alarm industry, one member
11 shall be the secretary of public safety or his designee, who
12 shall serve as chairman of the board, and one member shall be
13 from the general public. The governor shall appoint the
14 representatives from the burglar alarm industry and the public
15 member. The five members appointed by the governor shall serve
16 staggered terms; initially, one of the members shall be
17 appointed for a term ending July 1, 1998, one for a term ending
18 July 1, 1999, one for a term ending July 1, 2000, one for a term
19 ending July 1, 2001 and one for a term ending July 1, 2002.
20 Thereafter, appointments shall be made for terms of five years
21 and be made in such a manner that the terms of no more than two
22 board members expire on July 1 of each year. Vacancies shall be
23 filled by appointment by the governor for the unexpired term
24 within sixty days of the vacancy. Board members shall serve
25 until their successors have been appointed and qualified.

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1 B. Members of the board shall be citizens of the
2 United States and residents of this state. Burglar alarm
3 industry members shall be currently engaged in that business and
4 shall have been actively engaged in the industry for at least
5 three years immediately preceding appointment.

6 C. No board member shall serve more than two full or
7 partial terms, consecutive or otherwise.

8 D. Any governor-appointed board member who misses
9 three consecutive meetings without excuse may be removed as a
10 member of the board.

11 E. Appointed board members shall serve at the
12 pleasure of the governor.

13 F. Members of the board shall be reimbursed as
14 provided in the Per Diem and Mileage Act for each day
15 necessarily spent in the discharge of their duties, but shall
16 receive no other compensation, perquisite or allowance.

17 Section 6. BOARD--POWERS AND DUTIES.--The board may adopt
18 and enforce rules and regulations necessary to carry out
19 provisions of the Burglar Alarm Licensing Act and shall:

20 A. enforce and administer the provisions of the
21 Burglar Alarm Licensing Act;

22 B. conduct the examination process for licensure and
23 registration and issue licenses and registrations;

24 C. review complaints concerning the conduct of a
25 burglar alarm business or specialist;

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1 D. establish a record system for each burglar alarm
2 business and burglar alarm specialist licensed or registered
3 pursuant to the Burglar Alarm Licensing Act; and

4 E. obtain from the department of public safety and
5 the federal bureau of investigation information on the criminal
6 history of burglar alarm business and specialist applicants.

7 Section 7. REQUIREMENTS FOR LICENSURE. --The board shall
8 issue a license as a burglar alarm business to an individual or
9 other legal entity whose officers, partners or employees
10 responsible for the business' operation each:

11 A. file a completed application accompanied by
12 required fees;

13 B. are at least eighteen years of age;

14 C. demonstrate six thousand hours experience in the
15 burglar alarm industry;

16 D. pass an examination administered by the board;

17 E. supply all names, addresses, dates of birth,
18 social security numbers and fingerprints of owners, partners,
19 sole proprietors, officers and specialist employees of the
20 burglar alarm business;

21 F. have no criminal record;

22 G. file and maintain with the board evidence of
23 liability insurance;

24 H. comply with all other requirements of law as a
25 person doing business in the state; and

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1 I. comply with any additional requirements
2 established by the board in regulations adopted pursuant to the
3 Burglar Alarm Licensing Act.

4 Section 8. REQUIREMENTS FOR REGISTRATION. --The board shall
5 issue a registration as a burglar alarm specialist to a person
6 employed by a burglar alarm business who:

7 A. files a completed application accompanied by the
8 required fees;

9 B. is at least eighteen years of age;

10 C. demonstrates five hundred hours experience in the
11 burglar alarm industry;

12 D. passes an examination administered by the board;

13 E. supplies his name, address, date of birth, social
14 security number and fingerprints;

15 F. has no criminal record; and

16 G. complies with any additional requirements
17 established by the board in regulations adopted pursuant to the
18 Burglar Alarm Licensing Act.

19 Section 9. FEES. --The board shall establish by regulation
20 a schedule of reasonable fees for applications, examinations,
21 licenses, inspections, renewals, penalties, reinstatements and
22 necessary administrative fees; provided that no licensure
23 application fee shall exceed five hundred dollars (\$500), and no
24 registration application fee shall exceed one hundred dollars
25 (\$100). All fees collected shall be deposited in the burglar

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1 alarm licensing fund.

2 Section 10. LICENSE AND REGISTRATION TERMS AND RENEWAL. --

3 A. The board shall issue burglar alarm licenses and
4 registrations for two-year terms as established by rule. The
5 board shall revoke a license or registration not renewed within
6 one month following its expiration.

7 B. The burglar alarm license shall be displayed in a
8 conspicuous place in the principal place of business.

9 C. A burglar alarm business or specialist shall
10 notify the board within thirty days after any change in the
11 licensee's or registrant's address or any other information
12 required by the board under conditions of the license or
13 registration.

14 D. No burglar alarm license or registration is
15 transferable or reassignable.

16 Section 11. BOND REQUIRED. --

17 A. No license shall be issued under the Burglar
18 Alarm Licensing Act unless the applicant files with the board a
19 surety bond in the sum of fifty thousand dollars (\$50,000). The
20 bond shall run to the people of the state of New Mexico, shall
21 be executed and acknowledged by the applicant as principal and
22 by a corporation that is licensed by the superintendent of
23 insurance to transact the business of fidelity and surety
24 insurance, as surety.

25 B. The surety bond shall provide for suit by any

1 person who has a cause of action under the Burglar Alarm
2 Licensing Act or rules and regulations established pursuant to
3 that act.

4 C. No action shall be brought upon any bond after
5 the expiration of three years from the date of the occurrence of
6 the act upon which a claim is based.

7 D. The bond shall be continuous in form and remain
8 in full force and effect concurrently with the license and any
9 renewals unless terminated or canceled by action of the surety.

10 E. Upon the filing of thirty days' written notice
11 with the board by any surety company of its withdrawal as the
12 surety of any licensee, the board shall give notice by certified
13 mail to the licensee of the withdrawal. The license of any
14 licensee shall be void upon the termination of the bond by the
15 surety company unless, prior to termination, a new bond has been
16 filed with the board.

17 F. Should the license of any company to transact
18 fidelity and surety insurance business in this state be
19 canceled, revoked or otherwise terminated, all burglar alarm
20 business bonds for which such surety company is surety are
21 canceled. Upon the cancellation, the license of any burglar
22 alarm business having a bond posted is suspended and shall
23 remain suspended until a new and valid bond is filed; provided,
24 however, that failure of any such licensee to file a new bond
25 within thirty days after being advised by the board in writing

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1 of the necessity of doing so shall revoke the license.

2 Section 12. DENIAL, SUSPENSION OR REVOCATION OF LICENSE. --

3 In accordance with procedures set forth in the Uniform Licensing
4 Act, the board may deny, suspend or revoke any license held or
5 applied for under the Burglar Alarm Licensing Act upon grounds
6 that the licensee or applicant:

7 A. made a false statement or gave false information
8 in connection with an application for a license or renewal or
9 reinstatement of a license;

10 B. violated any provision of the Burglar Alarm
11 Licensing Act;

12 C. violated any rule or regulation of the board
13 adopted pursuant to the Burglar Alarm Licensing Act;

14 D. has been convicted of a felony or any crime
15 involving moral turpitude or illegally using, carrying or
16 possessing a deadly weapon;

17 E. impersonated, or permitted or aided and abetted
18 an employee of a burglar alarm business to impersonate, a law
19 enforcement officer or employee of the United States or of any
20 state or political subdivision;

21 F. committed or permitted any employee of a burglar
22 alarm business to commit any act while the license was expired
23 that would be cause for the suspension or revocation of a
24 license or grounds for the denial of an application for a
25 license;

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1 G. has been chronically or persistently inebriated
2 or addicted to the illegal use of dangerous or narcotic drugs;

3 H. has been adjudged mentally incompetent or insane;
4 or

5 I. while unlicensed or under suspended license,
6 represented himself as a licensed burglar alarm specialist
7 pursuant to the Burglar Alarm Licensing Act.

8 Section 13. LOCAL REGULATIONS. -- Nothing in the Burglar
9 Alarm Licensing Act shall prevent the governing body of any
10 county or municipality or incorporated city, town or village
11 from enacting and enforcing local ordinances not in conflict
12 with the Burglar Alarm Licensing Act upon any burglar alarm
13 business or specialist.

14 Section 14. FUND ESTABLISHED. -- The "burglar alarm
15 licensing fund" is established in the state treasury. All
16 license fees received by the board pursuant to the Burglar Alarm
17 Licensing Act shall be deposited in the fund and shall be used
18 by the board for the administration of that act. The state
19 treasurer shall invest the fund as other state funds are
20 invested, and all income derived from the fund shall be credited
21 to the fund. All money in the fund is appropriated to the board
22 for expenditure to carry out provisions of the Burglar Alarm
23 Licensing Act. Disbursements from the fund shall be drawn by
24 the secretary of finance and administration pursuant to vouchers
25 signed by the chairman of the board or his authorized

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1 representative. All balances in the fund shall remain in the
2 fund and shall not revert to the general fund.

3 Section 15. PENALTIES. --

4 A. A person who fraudulently represents himself to
5 be a burglar alarm business or specialist is guilty of a
6 misdemeanor and shall be punished by a definite term of
7 imprisonment less than one year or a fine of not more than one
8 thousand dollars (\$1,000) or both.

9 B. A person who violates a provision of the Burglar
10 Alarm Licensing Act, except as provided for in Subsection A of
11 this section, is guilty of a misdemeanor and shall be punished
12 by a definite term of imprisonment of not more than six months
13 or by a fine of not more than five hundred dollars (\$500) or
14 both.

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